

Dec. 29, 1981, Pub. L. 97-114, title VII, § 708, 95 Stat. 1579.
 Dec. 15, 1980, Pub. L. 96-527, title VII, § 708, 94 Stat. 3081.
 Dec. 21, 1979, Pub. L. 96-154, title VII, § 708, 93 Stat. 1152.
 Oct. 13, 1978, Pub. L. 95-457, title VIII, § 808, 92 Stat. 1244.
 Sept. 21, 1977, Pub. L. 95-111, title VIII, § 807, 91 Stat. 899.
 Sept. 22, 1976, Pub. L. 94-419, title VII, § 707, 90 Stat. 1291.
 Feb. 9, 1976, Pub. L. 94-212, title VII, § 707, 90 Stat. 168.
 Oct. 8, 1974, Pub. L. 93-437, title VIII, § 807, 88 Stat. 1225.
 Jan. 2, 1974, Pub. L. 93-238, title VII, § 707, 87 Stat. 1038.
 Oct. 26, 1972, Pub. L. 92-570, title VII, § 707, 86 Stat. 1196.
 Dec. 18, 1971, Pub. L. 92-204, title VII, § 707, 85 Stat. 727.
 Jan. 11, 1971, Pub. L. 91-668, title VIII, § 807, 84 Stat. 2030.
 Dec. 29, 1969, Pub. L. 91-171, title VI, § 607, 83 Stat. 480.
 Oct. 17, 1968, Pub. L. 90-580, title V, § 506, 82 Stat. 1129.
 Sept. 29, 1967, Pub. L. 90-96, title VI, § 606, 81 Stat. 242.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of this title.

§ 2639. Transportation to and from school for certain minor dependents

Funds appropriated to the Department of Defense may be used to provide minor dependents of members of the armed forces and of civilian officers and employees of the Department of Defense with transportation to and from primary and secondary schools if the schools attended by the dependents are not accessible by regular means of transportation.

(Added Pub. L. 98-525, title XIV, § 1401(j)(1), Oct. 19, 1984, 98 Stat. 2620.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in the following prior appropriation acts:

Oct. 12, 1984, Pub. L. 98-473, title I, § 101(h) [title VIII, § 8005], 98 Stat. 1904, 1922.
 Dec. 8, 1983, Pub. L. 98-212, title VII, § 708, 97 Stat. 1438.
 Dec. 21, 1982, Pub. L. 97-377, title I, § 101(c) [title VII, § 708], 96 Stat. 1833, 1850.
 Dec. 29, 1981, Pub. L. 97-114, title VII, § 708, 95 Stat. 1579.
 Dec. 15, 1980, Pub. L. 96-527, title VII, § 708, 94 Stat. 3081.
 Dec. 21, 1979, Pub. L. 96-154, title VII, § 708, 93 Stat. 1152.
 Oct. 13, 1978, Pub. L. 95-457, title VIII, § 808, 92 Stat. 1244.
 Sept. 21, 1977, Pub. L. 95-111, title VIII, § 807, 91 Stat. 899.
 Sept. 22, 1976, Pub. L. 94-419, title VII, § 707, 90 Stat. 1291.
 Feb. 9, 1976, Pub. L. 94-212, title VII, § 707, 90 Stat. 168.
 Oct. 8, 1974, Pub. L. 93-437, title VIII, § 807, 88 Stat. 1225.
 Jan. 2, 1974, Pub. L. 93-238, title VII, § 707, 87 Stat. 1038.

Oct. 26, 1972, Pub. L. 92-570, title VII, § 707, 86 Stat. 1196.
 Dec. 18, 1971, Pub. L. 92-204, title VII, § 707, 85 Stat. 727.
 Jan. 11, 1971, Pub. L. 91-668, title VIII, § 807, 84 Stat. 2030.
 Dec. 29, 1969, Pub. L. 91-171, title VI, § 607, 83 Stat. 480.
 Oct. 17, 1968, Pub. L. 90-580, title V, § 506, 82 Stat. 1129.
 Sept. 29, 1967, Pub. L. 90-96, title VI, § 606, 81 Stat. 242.
 Oct. 15, 1966, Pub. L. 89-687, title VI, § 606, 80 Stat. 991.
 Sept. 29, 1965, Pub. L. 89-213, title VI, § 606, 79 Stat. 873.
 Aug. 19, 1964, Pub. L. 88-446, title V, § 506, 78 Stat. 475.
 Oct. 17, 1963, Pub. L. 88-149, title V, § 506, 77 Stat. 264.
 Aug. 9, 1962, Pub. L. 87-577, title V, § 506, 76 Stat. 328.
 Aug. 17, 1961, Pub. L. 87-144, title VI, § 606, 75 Stat. 375.
 July 7, 1960, Pub. L. 86-601, title V, § 506, 74 Stat. 350.
 Aug. 18, 1959, Pub. L. 86-166, title V, § 606, 73 Stat. 378.
 Aug. 22, 1958, Pub. L. 85-724, title VI, § 606, 72 Stat. 724.
 Aug. 2, 1957, Pub. L. 85-117, title VI, § 607, 71 Stat. 323.
 July 2, 1956, ch. 488, title VI, § 607, 70 Stat. 468.
 July 13, 1955, ch. 358, title VI, § 609, 69 Stat. 315.
 June 30, 1954, ch. 432, title VII, § 709, 68 Stat. 351.
 Aug. 1, 1953, ch. 305, title VI, § 614, 67 Stat. 351.
 July 10, 1952, ch. 630, title VI, § 616, 66 Stat. 533.
 Oct. 18, 1951, ch. 512, title VI, § 616, 65 Stat. 446.
 Sept. 6, 1950, ch. 896, ch. X, title VI, § 619, 64 Stat. 755.
 Oct. 29, 1949, ch. 787, title VI, § 625, 63 Stat. 1021.
 June 24, 1948, ch. 632, § 2, 62 Stat. 667.
 July 30, 1947, ch. 357, title I, § 2, 61 Stat. 569.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of this title.

CHAPTER 159—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NON-EXCESS PROPERTY

Sec.

- 2067a. Sale and replacement of nonexcess real property.
- 2691. Restoration of land used by permit or lease from other agencies.
- 2692. Storage and disposal of nondefense toxic and hazardous materials.

AMENDMENTS

1984—Pub. L. 98-407, title VIII, §§ 804(b), 805(b), Aug. 28, 1984, 98 Stat. 1519, 1521, added items 2691 and 2692.

1983—Pub. L. 98-115, title VIII, § 807(a)(2), (c)(2), Oct. 11, 1983, 97 Stat. 788, 789, added item 2667a "Sale and replacement of nonexcess real property", with such item to be struck out effective Oct. 1, 1985.

[§ 2661a. Repealed. Pub. L. 97-295, § 1(31)(A), Oct. 12, 1982, 96 Stat. 1296]

Section, added Pub. L. 97-258, § 2(b)(6)(B), Sept. 13, 1982, 96 Stat. 1054, authorized appropriations for advance design of military public works not otherwise authorized and for construction management of foreign government funded projects used primarily by United States armed forces, and required preliminary

reports to Congress on military public works whose projected advance costs exceeded a specified level.

The repeal of this section by Pub. L. 97-295 reflected the effect of section 7(2) and (8) of the Military Construction Codification Act (Pub. L. 97-214, July 12, 1982, 96 Stat. 173), which repealed the source statutes of this section (subsec. (a) was based on acts Sept. 28, 1951, ch. 434, § 504, 65 Stat. 364; July 15, 1955, ch. 368, § 512, 69 Stat. 352; Dec. 23, 1981, Pub. L. 97-99, § 902, 95 Stat. 1381 (31 U.S.C. 723); and subsec. (b) was based on acts Sept. 12, 1966, Pub. L. 89-568, § 612, 80 Stat. 756; Dec. 27, 1974, Pub. L. 93-552, § 607, 88 Stat. 1763 (31 U.S.C. 723a)) subsequent to Apr. 15, 1982, the cut-off date prescribed by section 4(a) of Pub. L. 97-258, section 2(b)(6)(B) of which enacted this section.

§ 2664. Acquisition of property for lumber production

REFERENCES IN TEXT

Section 3 of the Maritime Act of 1981 (46 U.S.C. 1602), referred to in subsec. (a)(3), is classified to section 1602 of Title 46, Appendix, Shipping.

§ 2665. Sale of certain interests in land; logs

[See main edition for text of (a)]

(b) The President, through an executive department, may sell to any person or foreign government any forest products produced on land owned or leased by a military department or the Department of Transportation.

(c) Sales under subsection (a) or (b) shall be at prices determined by the President acting through the selling agency.

(d) Appropriations of the Department of Defense available for operation and maintenance during a fiscal year may be reimbursed for all expenses of production of forest products pursuant to this section from amounts received as proceeds from the sale of any such property during such fiscal year.

(e)(1) Each State in which is located a military installation or facility from which forest products are sold in a fiscal year is entitled at the end of such year to an amount equal to 40 percent of (A) the amount received by the United States during such year as proceeds from the sale of forest products produced on such installation or facility, less (B) the amount of reimbursement of appropriations of the Department of Defense under subsection (d) for all expenses of production of forest products during such year attributable to such installation or facility.

[See main edition for text of (2) and (3)]

(f)(1) There is in the Treasury a reserve account administered by the Secretary of Defense for the purposes of this section. Balances in the account may be used for expenses of the military departments—

(A) for improvements of forest lands;

(B) for unanticipated contingencies in the administration of forest lands and the production of forest products for which other sources of funds are not available in a timely manner; and

(C) for expenses to enable operations of forest lands and the production of forest products to continue from the end of one fiscal year through the beginning of the next fiscal year without disruption.

(2) Subject to paragraph (3), there shall be deposited into the reserve account not later than December 31 of each year, for credit to the preceding fiscal year, an amount equal to one-half of the amount (if any) remaining of the total amount received by the United States during that fiscal year as proceeds from the sale of forest products after (A) the reimbursement of appropriations of the Department of Defense under subsection (d) for expenses of production of forest products during that fiscal year, and (B) the payment to States under subsection (e) for that fiscal year.

(3) The balance in the reserve account may not exceed \$4,000,000. If a deposit under paragraph (2) would cause the balance in the account to exceed that amount, the deposit shall be made only to the extent the amount of the deposit would not cause the balance in the account to exceed \$4,000,000.

(As amended Aug. 28, 1984, Pub. L. 98-407, title VIII, § 809(a), 98 Stat. 1522)

AMENDMENTS

1984—Subsec. (b), Pub. L. 98-407, § 809(a)(1), substituted "forest products produced on land owned or leased by a military department or the" for "logs wholly or partly manufactured by, or otherwise procured for, the Army, Navy, or Air Force, or".

Subsec. (d), Pub. L. 98-407, § 809(a)(2), substituted "forest products" for "lumber and timber products".

Subsec. (e)(1), Pub. L. 98-407, § 809(a)(3), substituted "forest products" for "timber and timber products" in two places and "40 percent" for "25 percent".

Subsec. (f), Pub. L. 98-407, § 809(a)(4), added subsec. (f).

EFFECTIVE DATE OF 1984 AMENDMENT

Section 809(b) of Pub. L. 98-407 provided that:

"(b)(1) Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall take effect on October 1, 1984.

"(2) The amendment made by subsection (a)(2)(B) [probably should be '(a)(3)(B)', which amended subsec. (e)(1) of this section] shall apply with respect to payments to States for fiscal years beginning after September 30, 1984."

§ 2667a. Sale and replacement of nonexcess real property

(a)(1) Subject to paragraph (2), the Secretary of Defense may carry out real property transactions in accordance with this section. Any such transaction shall consist of—

(A) the sale of any real property under the control of the Department of Defense other than property described in paragraph (3); and

(B) such acquisition of land, construction and acquisition of facilities to replace facilities included in the property to be sold, and relocation of Department of Defense activities to such replacement facilities as may be required to ensure efficient and effective continuity of defense functions being carried out at the property to be sold.

(2) A transaction under this section may not be carried out unless the transaction is specifically authorized by law.

(3) A transaction under this section may not include the sale of any of the following:

(A) Public domain lands.

(B) Property which can be considered excess under the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(C) Property that the Secretary of the Interior has determined under subsection (b)(2) to be suitable for use as a public park or recreation area and with respect to which the Secretary of the Interior has sent a notification to the Secretary of Defense under such subsection.

(b)(1) A proposal to Congress for authorization of a transaction under this section shall include—

(A) a description of the property to be sold (including the specific location of the property);

(B) an estimate of the fair market value of the property to be sold;

(C) an explanation of the need for any property or facilities to replace property or facilities to be sold under the transaction;

(D) an estimate of the costs of such replacement facilities and of relocation from the property to be sold to the replacement facilities; and

(E) a net financial statement for the transaction, including a schedule of estimated expenditures under the transaction and a schedule of the estimated proceeds to be realized from the sale of property under the transaction.

(2) Before proposing a transaction to Congress under this section, the Secretary of Defense shall notify the Secretary of the Interior in writing of the proposed transaction. The transaction may not be proposed to Congress if the Secretary of the Interior notifies the Secretary of Defense in writing not later than 60 days after receipt of the notification that he has determined that the property proposed to be sold under the transaction is suitable for use as a public park or recreation area. Any such determination by the Secretary of the Interior shall be made in accordance with procedures and standards used by the Secretary under section 203(k)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(2)).

(c) A transaction authorized pursuant to this section—

(1) shall be accomplished, to the extent feasible, using competitive bid procedures or qualified contract realty brokers;

(2) may not be carried out unless the property to be conveyed under the transaction will be sold for at least the equivalent of its fair market value;

(3) may not be carried out unless the amount of the estimated proceeds from the sale of property under the transaction exceeds the amount of the costs of such transaction described in subsection (e); and

(4) may not be carried out unless the activities intended to be performed at the replacement facilities are substantially similar in character or nature to those performed at the property to be sold.

(d)(1) The sale of any real property pursuant to a transaction authorized under this section

shall be conducted by the Administrator of General Services. The Administrator may sell such property upon such credit terms and financial conditions as he and the Secretary of Defense may agree upon. The Administrator shall execute such documents for the transfer of title and take such other actions as necessary to dispose of such property under the provisions of this section.

(2) Proceeds from any such sale shall be covered into the Treasury.

(3) The Secretary of Defense shall reimburse the Administrator for expenses incurred in making such sales as authorized by subsection (e)(3).

(e) To the extent provided for in appropriation Acts, the Secretary of Defense—

(1) may carry out the acquisition of land and the construction and acquisition of facilities included as part of an authorized transaction under this section;

(2) may pay the reasonable relocation expenses made necessary by the transaction; and

(3) may pay all expenses incident to the sale of property under the transaction, including reimbursement of expenses under subsection (d)(3).

(f) Upon completion of a transaction under this section—

(1) ninety-five percent of the proceeds remaining from the sale of property under the transaction (after subtracting the amount of applicable costs described in subsection (e)) shall remain in the Treasury; and

(2) an amount equal to five percent of the proceeds remaining from the sale of property under the transaction (after subtracting the amount of applicable costs described in subsection (e)) shall be credited to the account established under subsection (g).

(g)(1) There is hereby established on the books of the Treasury an account to be known as the Department of Defense Facilities Replacement Management Account (hereinafter in this section referred to as the "account"). The account shall be administered by the Secretary of Defense and shall be administered as a single account.

(2) The account may be used for—

(A) advanced planning, design, and other expenses related to potential future transactions; and

(B) advances where necessary to meet expenses of an authorized transaction before appropriations are made available for the transaction.

(3) An expenditure from the account in an amount greater than \$300,000 may not be made until the Secretary of Defense has notified the appropriate committees of Congress in writing of the proposed expenditure and a period of 21 days has elapsed after the date of the receipt of that notification by those committees.

(4) Any unobligated moneys in the account at the end of a fiscal year in excess of \$50,000,000 (or in excess of any lesser amount determined by the Secretary of Defense to be sufficient for

the purpose of this section) shall be covered into the Treasury.

(Added Pub. L. 98-115, title VIII, § 807(a)(1), Oct. 11, 1983, 97 Stat. 786.)

REPEAL OF SECTION

Section 807(c)(1), (3) of Pub. L. 98-115 provided that, effective on October 1, 1985, this section is repealed, and the Department of Defense Facilities Replacement Management Account established by this section is abolished and any balance in such account is transferred into the Treasury.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(3)(B), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that Act relating to management and disposal of Government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

§ 2668. Easements for rights-of-way

(a) If the Secretary of a military department finds that it will not be against the public interest, he may grant, upon such terms as he considers advisable, easements for rights-of-way over, in, and upon public lands permanently withdrawn or reserved for the use of that department, and other lands under his control, to a State, Territory, Commonwealth, or possession, or political subdivision thereof, or to a citizen, association, partnership, or corporation of a State, Territory, Commonwealth, or possession, for—

[See main edition for text of (1) to (9)]

(10) any other purpose that he considers advisable, except a purpose covered by section 2669 of this title or by the Act of March 4, 1911 (43 U.S.C. 961).

[See main edition for text of (b) to (d)]

(As amended Oct. 19, 1984, Pub. L. 98-525, title XIV, § 1405(38), 98 Stat. 2624.)

AMENDMENTS

1984—Subsec. (a)(10). Pub. L. 98-525 substituted “the Act of March 4, 1911 (43 U.S.C. 961)” for “section 961 of title 43”.

§ 2672a. Acquisition: interests in land when need is urgent

(a) The Secretary of a military department may acquire any interest in land that—

(1) he or his designee determines is needed in the interest of national defense;

(2) is required to maintain the operational integrity of a military installation; and

(3) considerations of urgency do not permit the delay necessary to include the required acquisition in an annual Military Construction Authorization Act.

(b) Appropriations available for military construction may be used for the purposes of this section. The authority to acquire an interest in land under this section includes authority to

make surveys and acquire interests in land (including temporary use), by gift, purchase, exchange of land owned by the United States, or otherwise. The Secretary of a military department contemplating action under this section shall provide notice, in writing, to the Committees on Armed Services of the Senate and House of Representatives at least 30 days in advance of any action being taken.

(As amended Pub. L. 98-525, title XIV, § 1405(39), Oct. 19, 1984, 98 Stat. 2624.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-525, § 1405(39)(A), (B), designated first sentence as subsec. (a) and substituted in par. (2) thereof “operational” for “operation”.

Subsec. (b). Pub. L. 98-525, § 1405(39)(C), (D), designated second sentence as subsec. (b) and substituted “this section shall” for “this provision will” and “Committees on Armed Services” for “Armed Services Committees”.

§ 2675. Leases: foreign countries

[See main edition for text of (a)]

(b) A lease may not be entered into under this section for structures or related real property in any foreign country if the average estimated annual rental during the term of the lease if more than \$250,000 until after the expiration of 30 days from the date upon which a report of the facts concerning the proposed lease is submitted to the Committees on Armed Services of the Senate and House of Representatives.

(As amended Pub. L. 98-525, title XIV, § 1405(40), Oct. 19, 1984, 98 Stat. 2624.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-525 substituted “30” for “thirty”.

§ 2676. Acquisition: limitation

[See main edition for text of (a) and (b)]

(c) [See main edition for text of (1)]

(2) A land acquisition project may not be placed under contract if, based upon the agreed price for the land or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land—

(A) the scope of the acquisition, as approved by Congress, is proposed to be reduced by more than 25 percent; or

(B) the agreed price for the land or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land,¹ exceeds the amount appropriated for the project by more than (i) 25 percent, or (ii) 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser,

until subsection (d) is complied with.

[See main edition for text of (d)]

¹ See 1984 Amendment note below.

(e) The Secretary concerned shall promptly pay any deficiency judgment against the United States awarded by a court in an action for condemnation of any interest in land or resulting from a final settlement of an action for condemnation of any interest in land. Payments under this subsection may be made from funds available to the Secretary concerned for military construction projects and without regard to the limitations of subsections (c) and (d).

(As amended Pub. L. 98-407, title VIII, § 802, Aug. 28, 1984, 98 Stat. 1519.)

AMENDMENTS

1984—Subsec. (c)(2). Pub. L. 98-407, § 802(1), inserted "or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land" in the provisions preceding subpar. (A).

Subsec. (c)(2)(B). Pub. L. 98-407, § 802(2), inserted "or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land.". Insertion of new language following "the agreed price for the land" was executed to text notwithstanding directory language of Pub. L. 98-407 that made a reference to a nonexistent comma following "the agreed price for the land".

Subsec. (e). Pub. L. 98-407, § 802(3), added subsec. (e).

§ 2677. Options: property required for military construction projects

[See main edition for text of (a)]

(b) As consideration for an option acquired under subsection (a), the Secretary may pay, from funds available to his department for real property activities, an amount that is not more than 12 percent of the appraised fair market value of the property.

(As amended Pub. L. 98-407, title VIII, § 803, Aug. 28, 1984, 98 Stat. 1519.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-407 substituted "12 percent" for "5 percent".

§ 2687. Base closures and realignments

(a) Notwithstanding any other provision of law, no action may be taken to effect or implement—

(1) the closure of any military installation;

(2) any realignment with respect to any military installation involving a reduction by more than 1,000, or by more than 50 percent, in the number of civilian personnel authorized to be employed at such military installation at the time the Secretary of Defense or the Secretary of the military department concerned notifies the Congress under subsection (b)(1) that such installation is a candidate for closure or realignment; or

[See main edition for text of (3)]

unless and until the provisions of subsection (b) are complied with.

(b) No action described in subsection (a) with respect to the closure of, or a realignment with respect to, any military installation may be taken unless and until—

[See main edition for text of (1)]

(2) the Secretary of Defense or the Secretary of the military department concerned complies with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the proposed closure or realignment;

[See main edition for text of (3)]

(4) a period of 60 days expires following the date on which the justification referred to in clause (3) has been submitted to such committees, during which period no irrevocable action may be taken to effect or implement the decision.

[See main edition for text of (c)]

(d) As used in this section:

(1) "Military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department—

(A) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(B) at which not less than 300 civilian personnel are authorized to be employed.

Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

[See main edition for text of (2) and (3); (e)]

(As amended Pub. L. 98-525, title XIV, § 1405(41), Oct. 19, 1984, 98 Stat. 2624.)

AMENDMENTS

1984—Subsec. (a)(2). Pub. L. 98-525, § 1405(41)(A), substituted "1,000" for "one thousand".

Subsec. (b)(2). Pub. L. 98-525, § 1405(41)(B), inserted "(42 U.S.C. 4321 et seq.)".

Subsec. (b)(4). Pub. L. 98-525, § 1405(41)(C), substituted "60" for "sixty".

Subsec. (d)(1)(B). Pub. L. 98-525, § 1405(41)(D), substituted "300" for "three hundred".

§ 2691. Restoration of land used of² permit or lease from other agencies

(a) The Secretary of the military department concerned may remove improvements and take any other action necessary in the judgment of the Secretary to restore land used by that military department by permit or lease from another military department or Federal agency if the restoration is required by the permit or lease making that land available to the military department. The Secretary concerned may carry out this section using funds available for operations and maintenance or for military construction.

(b) Unless otherwise prohibited by law or the terms of the permit or lease, before restoration of any land under subsection (a) is begun, the Secretary concerned shall determine, under the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et

²So in original. Probably should be "by".

seq.), whether another military department or Federal agency has a use for the land in its existing, improved state. During the period required to make such a determination, the Secretary may provide for maintenance and repair of improvements on the land to the standards established for excess property by the Administrator of General Services.

(Added Pub. L. 98-407, title VIII, § 804(a), Aug. 28, 1984, 98 Stat. 1519.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of the act related to management and disposal of Government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

§ 2692. Storage and disposal of nondefense toxic and hazardous materials

(a)(1) Except as otherwise provided in this section, the Secretary of Defense may not permit the use of an installation of the Department of Defense for the storage or disposal of any material that is a toxic or hazardous material and that is not owned by the Department of Defense.

(2) The Secretary of Defense shall define by regulation what materials are hazardous or toxic materials for the purposes of this section, including specification of the quantity of a material that serves to make it hazardous or toxic for the purposes of this section. The definition shall include materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of that Act (42 U.S.C. 9602) and shall include materials that are of an explosive, flammable, or pyrotechnic nature.

(b) Subsection (a) does not apply to—

(1) the storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services;

(2) the temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made in accordance with an agreement between the Secretary of Defense and the head of the Federal agency concerned;

(3) the temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities;

(4) the disposal of excess explosives produced under a Department of Defense contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements;

(5) the temporary storage of nuclear materials or nonnuclear classified materials in ac-

cordance with an agreement with the Secretary of Energy;

(6) the storage of materials that constitute military resources intended to be used during peacetime civil emergencies in accordance with applicable Department of Defense regulations; and

(7) the temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency.

(c) The Secretary of Defense may grant exceptions to subsection (a) when essential to protect the health and safety of the public from imminent danger if the Secretary otherwise determines the exception is essential and if the storage or disposal authorized does not compete with private enterprise.

(d)(1) The Secretary may assess a charge for any storage or disposal provided under this section. Any such charge shall be on a reimbursable cost basis.

(2) In the case of storage under this section authorized because of an imminent danger, the storage provided shall be temporary and shall cease once the imminent danger no longer exists. In all other cases of storage or disposal authorized under this section, the storage or disposal authorized shall be terminated as determined by the Secretary.

(Added Pub. L. 98-407, title VIII, § 805(a), Aug. 28, 1984, 98 Stat. 1520.)

CHAPTER 163—MILITARY CLAIMS

Sec.

2734a. Property loss; personal injury or death; incident to noncombat activities of armed forces in foreign countries; international agreements.

AMENDMENTS

1984—Pub. L. 98-525, title XIV, § 1405(42)(B), Oct. 19, 1984, 98 Stat. 2625, substituted in item 2734a "in foreign countries" for "foreign countries".

§ 2733. Property loss; personal injury or death; incident to noncombat activities of Department of Army, Navy, or Air Force

(a) Under such regulations as the Secretary concerned may prescribe, he, or, subject to appeal to him, the Judge Advocate General of an armed force under his jurisdiction, or the chief Counsel of the Coast Guard, as appropriate, if designated by him, may settle, and pay in an amount not more than \$100,000, a claim against the United States for—

[See main edition for text of (1) to (3)]

either caused by a civilian officer or employee of that department, or the Coast Guard, or a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, acting within the scope of his employment, or otherwise incident to noncombat activities of that department, or the Coast Guard.

[See main edition for text of (b) and (c)]